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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,608	12/02/2003	Hiroynki Kometani	380-45	3708
23117 7590 10/08/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
SERGENT, RABON A				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
10/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/724,608

Applicant(s)

KOMETANI ET AL.

Examiner

Rabon Sergeant

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Rabon Sergeant/
Primary Examiner, Art Unit 1796

Continuation of 11.: Applicants' response has been carefully considered; however, the prior art rejection has been maintained for the reasons previously set forth within the final Office action. Furthermore, regarding the after-final response, it is noted that applicants' discussion of their invention is not commensurate in scope with the invention as claimed. Firstly, applicants maintain that the invention uses an unblocked isocyanate; however, it is by no means clear that the instant claims exclude blocked isocyanates; the claims merely recite a method for reacting polyols with polyisocyanates, and it is noted that in systems that employ blocked polyisocyanates, the claimed method step occurs when the polyol or active hydrogen compound reacts with the deblocked isocyanate groups. Secondly, applicants state that the sealant of the present invention has to cure at ambient temperature without heating and is required to stay fluid for a while; however, none of these features or "requirements" are claimed. Thirdly, applicants state that the present invention uses a polyether polyol; however, independent claims 26 and 28 are not limited to only polyether polyols. Accordingly, applicants arguments are drawn to a far more limited or restricted composition than is actually set forth within the claimed methods. Applicants further argue that the examiner has not given any reasoning as to how blocking the tertiary amine would have been obvious from the cited references. In response, this argument is not understood, since it appears clear from the rejection that the reasoning stems from the teachings within the references that blocked bicyclic tertiary amines were known catalysts for polyurethane systems. See, for example, column 3, lines 31-34 within Hagio et al. and column 5, lines 1+ within Nakamura et al. Applicants further argue that the generic disclosure of unsaturated acids in the cited references is insufficient to make obvious the use of specific species of catalyst to be used in the present invention. In response, the position is maintained that the teachings within the references with respect to the acid component are sufficient to establish a prima facie case of obviousness, and the burden rests with applicants to adequately rebut this prima facie case. To date and for the reasons set forth previously, applicants' rebuttal has been inadequate. Lastly, applicants argue that the citation of Hagio et al. as the primary reference is improper since Hagio et al. is drawn to a heat-curing polyurethane system using acrylic copolymer and blocked isocyanate, as opposed to an ambient temperature curable sealant using a polyether polyol and unblocked polyisocyanate. In response, as aforementioned, it is not agreed that the claimed invention is limited as argued, with respect to such features as exclusion of blocked isocyanates, mandated use of polyether polyol for all claims, and curing temperature conditions. Furthermore, it is noted that Hagio et al. provides for the use of such active hydrogen species as polyether containing species, which are adequate to meet those claimed and argued. See column 3, line 66 of Hagio et al. In summation, the position is maintained that the claims, as drafted, are prima facie obvious over the cited prior art.